

House Bill 871

By: Representative Franklin of the 43rd

A BILL TO BE ENTITLED
AN ACT

To provide a short title; to amend Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to control of hazardous conditions, preventable diseases, and metabolic disorders, so as to repeal requirements for mandatory vaccination; to amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, so as to repeal the authority of the Governor to issue mandatory vaccination orders; to prohibit the quarantine of persons solely for failure to submit to and receive voluntary vaccinations; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Freedom from Compulsory Pandemic Act."

SECTION 2.

Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to control of hazardous conditions, preventable diseases, and metabolic disorders, is amended by revising Code Section 31-12-3, relating to power to require immunization and other preventive measures, as follows:

"31-12-3.

(a) The department and all county boards of health are empowered to ~~require, by appropriate rules and regulations, provide for voluntary vaccinations of~~ persons located within their respective jurisdictions ~~to submit to vaccination~~ against contagious or infectious disease where the particular disease may occur, whether or not the disease may be an active threat; provided that in no event shall any such vaccination be mandatory. The department may, in addition, require such other measures to prevent the conveyance of infectious matter from infected persons to other persons as may be necessary and

appropriate. The department shall promulgate appropriate rules and regulations for the implementation of the provisions of this Code section in the case of a declaration of a public health emergency ~~and shall include provisions permitting consideration of the opinion of a person's personal physician as to whether the vaccination is medically appropriate or advisable for such person.~~ Such rules and regulations shall be adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' but shall be automatically referred by the Office of Legislative Counsel to the House of Representatives and Senate Committees on Judiciary.

~~(b) In the absence of an epidemic or immediate threat thereof, this Code section shall not apply to any person who objects in writing thereto on grounds that such immunization conflicts with his religious beliefs."~~

SECTION 3.

Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, is amended by revising paragraph (6) of subsection (b) of Code Section 38-3-22, relating to Governor's emergency management powers and duties, as follows:

"(6) To employ such measures and give such directions to the Department of Community Health and local boards of health as may be reasonably necessary for the purpose of securing compliance with Articles 1 through 3 of this chapter or with the findings or recommendations of the Department of Community Health and local boards of health by reason of conditions arising from emergencies or disasters, manmade or natural, or the threat of enemy attack or otherwise, provided that such measures shall not include mandatory vaccinations nor the quarantine of persons solely because of the failure or refusal of such persons to submit to or receive voluntary vaccinations;".

SECTION 4.

Said chapter is further amended by revising paragraph (2) of subsection (i) of Code Section 38-3-51, relating to emergency powers of Governor, as follows:

"(2) The following due process procedures shall be applicable to any quarantine ~~or vaccination~~ program instituted pursuant to a declaration of a public health emergency:

(A) Consonant with maintenance of appropriate quarantine rules, the department shall permit access to counsel in person or by such other means as practicable that do not threaten the integrity of the quarantine;

(B) An order imposing a quarantine ~~or a vaccination~~ program may be appealed but shall not be stayed during the pendency of the challenge. The burden of proof shall be on the state to demonstrate that there exists a substantial risk of exposing other persons

61 to imminent danger. ~~With respect to vaccination, the state's burden of proof shall be~~
62 ~~met by clear and convincing evidence. With respect to quarantine, the~~ The state's
63 burden of proof shall be met by a preponderance of the evidence;

64 (C) An individual or a class may challenge the order before any available judge of the
65 state courts, the superior courts, the Court of Appeals, or the Supreme Court. Such
66 judge, upon attestation of the exigency of the circumstances, may proceed ex parte with
67 respect to the state or may appoint counsel to represent the interests of the state or other
68 unrepresented parties. The judge hearing the matter may consolidate a multiplicity of
69 cases or, on the motion of a party or of the court, proceed to determine the interests of
70 a class or classes. The rules of evidence applicable to civil cases shall be applied to the
71 fullest extent practicable taking into account the circumstances of the emergency. All
72 parties shall have the right to subpoena and cross-examine witnesses, but in
73 enforcement of its subpoena powers the court shall take into account the circumstances
74 of the emergency. All proceedings shall be transcribed to the extent practicable. Filing
75 fees shall be waived and all costs borne by the state;

76 (D) The judge hearing the matter may enter an appropriate order upholding or
77 suspending the quarantine ~~or vaccination~~ order. ~~With respect to vaccination, the order~~
78 ~~may be applicable on notice to the department or its agents administering the~~
79 ~~vaccination, or otherwise in the court's discretion. With respect to quarantines, the~~ The
80 order shall be automatically stayed for 48 hours;

81 (E) The department or any party may appeal any order within 24 hours to the Court of
82 Appeals, the Supreme Court, or to any available judge thereof in the event that
83 circumstances render a full court unavailable. If the trial judge has proceeded ex parte
84 or with counsel appointed for the state, the trial court shall either direct the filing of an
85 appeal in its order or itself certify the order for appeal. Filing fees for appeal shall be
86 waived, all costs shall be borne by the state, and such appeals shall be heard
87 expeditiously; and

88 (F) No provisions of this paragraph shall be construed to limit or restrict the right of
89 habeas corpus under the laws of the United States."

90 SECTION 5.

91 This Act shall become effective upon its approval by the Governor or upon its becoming law
92 without such approval.

93 SECTION 6.

94 All laws and parts of laws in conflict with this Act are repealed.